

Chapter 47. Soil Classifiers.

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Subchapter 1. General Provisions.

§ 17-47-101. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Soil classifier" means a professional soil classifier as defined in subdivision (2) of this section;
- (2) "Professional soil classifier" means a person who, by reason of his special knowledge of the physical, chemical, and biological sciences applicable to soils as natural bodies and of the methods and principles of soil classification experienced in the formation, morphology, description, and mapping of soils, is qualified to practice soil classifying, and who has been registered by the Arkansas State Board of Registration for Professional Soil Classifiers;
- (3) "Soil classifier-in-training" means a person who complies with the requirements for education and character and who has passed an examination in the fundamental soil and related subjects as provided for in §§ 17-47-304 and 17-47-305;
- (4) "Soil" means all of the groups of natural bodies occupying the unconsolidated portion of the earth's surface capable of supporting plant life and having properties due to the combined effect of climate and living organisms, as modified by topography and time, upon parent materials;
- (5) "Kind of soil" means a group of natural bodies that has a discrete combination of landscape, morphological, chemical, and physical properties;
- (6) "Soil classification" means plotting the boundaries, describing, and evaluating the kinds of soil as to their behavior and response to management under the various uses; and
- (7) (A) "Practice of soil classifying" or "practice of professional soil classifying"
:
 - i. Means any service or work, the adequate performance of which requires education in the physical, chemical, biological, and soil sciences; training and experience in the application of the special knowledge of these sciences to soil classification; the soil classification by accepted principles and methods; investigation, evaluation, and consultation on the effect of measured, observed, and inferred soil properties upon the various uses; the preparation of soil

descriptions, maps, and reports and interpretive drawings, maps, and reports of soil properties; the effect of soil properties upon the various uses; and the effect of the various uses upon kinds of soil, any of which embraces service or work either public or private incidental to the practice of soil classifying. A person shall be construed to practice or offer to practice soil classifying within the meaning and intent of this chapter who by verbal claim, sign, advertisement, letterhead, card, or use of some other title represents himself to be a soil classifier;

- ii. Does not mean or include the practice of soil classifying by persons exempt under the provisions of § 17-47-103, the work ordinarily performed by persons who sample and test soil for fertility status or construction materials, and engineering surveys and soundings to determine soil properties influencing the design and construction of engineering and architectural projects.

- (B) Notwithstanding the foregoing provisions, a person shall not be construed to practice soil classifying unless he offers soil classifying services to, or performs soil classifying for, the public.

History. Acts 1975, No. 460, § 2; A.S.A. 1947, § 71-2702.

§ 17-47-102. Penalties.

(a) Each of the following shall be guilty of a misdemeanor and shall, for each offense of which he is convicted, be punished by a fine of not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200):

(1) Any person who:

- (A) Practices or offers to practice professional soil classifying in this state without being registered in accordance with the provisions of this chapter;
- (B) Attempts to use an expired or revoked or nonexistent certificate of registration;
- (C) Falsely claims that he is registered under this chapter;
- (D) Presents or attempts to use the certificate of registration of another;

- (E) Falsely impersonates any other registrant of like or different names;
- (F) Gives false or forged evidence of any kind to the board or to any member thereof in obtaining or attempting to obtain a certificate of registration; or
- (G) Practices or offers to practice when not qualified;

(2) Any person, firm, partnership, organization, association, corporation, or other entity using or employing the words "soil classifier" or "professional soil classifier" or any modification or derivative thereof in its name or form of business or activity except as authorized in this chapter; or

(3) Any person, partnership, corporation, or other entity who shall violate any of the provisions of this chapter.

(b) Each violation and each day of any violation shall constitute a separate offense.

History. Acts 1975, No. 460, § 20; A.S.A. 1947, § 71-2720.

§ 17-47-103. Exemptions.

This chapter shall not be construed to prevent or affect:

- (1) The practice or offer to practice of soil classifying by a person not a resident or having no established place of business in this state, provided that the person is legally qualified by the provisions of this chapter to practice soil classifying as defined in this chapter in his own state which extends similar privileges to persons registered under this chapter and provided that the person shall make application accompanied by the appropriate application fee to the board in writing prior to his practicing or offering to practice soil classifying; the applicant may be granted a temporary permit for a definite period of time not to exceed one (1) year to do a specific job. However, no right to practice soil classifying shall accrue to the applicant with respect to any other work not set forth in the permit;
- (2) The work of an employee or a subordinate of a person holding a certificate or registration under this chapter or an employee of a person practicing lawfully under subdivision (1) of this section, provided that the work does not include final soil classifying decisions and is done under the direct supervision of, and verified by, a person holding a certificate of registration under this chapter or a person practicing lawfully under subdivision (4) of this section;

- (3) The practice of any other legally recognized profession or trade; or
- (4) The practice of soil classifying by any person regularly employed to perform soil classifying services solely for his employer or for a subsidiary or affiliated corporation of his employer, when the soil classifying performed is in connection with the property, products, or services of his employer.

History. Acts 1975, No. 460, § 19; A.S.A. 1947, § 71-2719.

Subchapter 2. Arkansas State Board of Registration for Professional Soil Classifiers.

§ 17-47-201. Creation and members.

- (a) There is created the Arkansas State Board of Registration for Professional Soil Classifiers.
- (b) The board shall consist of five (5) members to be appointed by the Governor for terms of five (5) years. The Governor shall consider for appointment a list of nominees submitted to him by the Arkansas Association of Professional Soil Classifiers.
 - (1) Each member of the board shall be a citizen of the United States and a resident of this state.
 - (2) One (1) member of the board shall be a member of a board of directors of a soil conservation district in this state.
 - (3) Three (3) members of the board shall be registered professional soil classifiers in this state.
 - (4) One (1) member of the board shall be from the public at large in this state.
- (c) A member may be reappointed to succeed himself.
- (d) Each member shall hold office until a successor has been duly appointed.
- (e) The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.
- (f) Vacancies on the board, however created, shall be filled by the Governor for the unexpired term.
- (g) All members shall be subject to confirmation of the Senate.
- (h) Each member of the board shall serve without compensation, except that the board member may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1975, No. 460, § 1; A.S.A. 1947, § 71-2701; Acts 1997, No. 250, § 151.

§ 17-47-202. Powers of the board.

The board shall have the power to:

- (1) Administer this chapter;
- (2) Adopt and amend all bylaws, rules of procedure, and regulations to administer and carry out the provisions of this chapter and for the conduct of its affairs and functions, consistent with this chapter and the Constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulation of its proceedings, meetings, records, examinations, and the conduct thereof;
- (3) Adopt and promulgate a code of ethics which shall be binding upon all persons registered under or subject to this chapter;
- (4) Employ clerks, technical experts, and attorneys as it may deem necessary or desirable to carry out the provisions of this chapter;
- (5) Apply in the name of the state for relief by injunction, without bond, enforce the provisions of this chapter, or restrain any violation thereof. In this proceeding it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable under this proceeding; and
- (6) Enter into agreements with the Arkansas Soil and Water Conservation Commission to share office, clerical, and secretarial services and to reimburse the commission for the cost of the services.

History. Acts 1975, No. 460, § 3; A.S.A. 1947, § 71-2703.

§ 17-47-203. Records and reports - Disposition of funds.

The board shall:

- (1) Keep a record of its proceedings and of all applications for registration which shall show the name, age, and last-known address of each applicant, his education, experience, and other qualifications, type of examination required, whether or not a certificate of registration was granted, whether or not the applicant was rejected, the date of the action of the board, and other information which may be deemed necessary by the board. The record of the board shall be prima facie evidence of the proceeding of the board. A transcript thereof certified by the secretary under seal shall be admissible as evidence with the same force and effect as if the original were produced;

- (2) Annually submit to the Governor a report of its transactions of the preceding year and transmit to him a complete statement of the receipts and expenditures of the board attested by affidavits of its chairman and its secretary; and
- (3) Establish accounts in one (1) or more banks in this state, chosen by the board, into which all funds collected by the board under this chapter shall be deposited and from which all expenditures approved by the board, or by its chairman and secretary acting on authority of the board, shall be made.

History. Acts 1975, No. 460, § 4; A.S.A. 1947, § 71-2704.

Subchapter 3. Registration and Certification

§ 17-47-301. Registration required.

No person shall practice or offer to practice professional soil classifying as defined by this chapter unless the person is registered to practice under or exempt from the provisions of this chapter.

History. Acts 1975, No. 460, § 18; A.S.A. 1947, § 71-2718.

§ 17-47-302. Eligibility - Application.

(a) To be eligible for registration as a professional soil classifier or certification as a soil classifier-in-training, an applicant must:

- (1) Be of good character and reputation; and
- (2) Submit a written application to the board containing such information as the board may require, together with five (5) references, three (3) of which shall be professional soil classifiers having personal knowledge of his soil classifying experience or, in the case of an application for certification as a soil classifier-in-training, three (3) character references.

(b) Application for registration as a professional soil classifier and for certification as a soil classifier-in-training shall:

- (1) Be on a form prescribed and furnished by the board;
- (2) Contain statements made under oath showing the applicant's education, a detailed summary of his experience, and references as required by this chapter; and
- (3) Be accompanied by an application fee established by the board of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

History. Acts 1975, No. 460, §§ 5, 9; A.S.A. 1947, §§ 71-2705, 71-2709; Acts 1993, No. 1219, § 12.

§ 17-47-303. Examinations.

- (a) Examinations shall be held at times and places which the board shall determine.

- (b) Examinations required on fundamental soil subjects may be taken at any time prescribed by the board
- (c) The final examinations may not be taken until the applicant has completed a period of soil classifying experience as provided in this chapter.
- (d) A candidate failing one (1) examination may apply for reexamination, which may be granted upon payment of a fee established by the board of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

History. Acts 1975, No. 460, § 11; A.S.A. 1947, § 71-2711.

§ 17-47-304. Professional soil classifiers - Qualifications - Registration.

(a) An applicant otherwise eligible shall be admitted to registration as a professional soil classifier if he has successfully passed an examination in the principles and practice of soil classifying as prescribed by the board and has one of the following additional qualifications:

- (1) Is a graduate of a soils curriculum approved by the board as satisfactory and with a specific record of an additional one (1) year or more of experience of a grade and character which indicates to the board that the applicant is competent to practice soil classifying and who holds a valid soil classifier-in-training certificate;
- (2) Is a person who has satisfactorily completed a soil curriculum not approved by the board and two (2) years or more of experience in soil classifying work of a character and grade which indicates to the board that the applicant is competent to practice soil classifying; or
- (3) Is a person who holds a valid soil classifier-in-training certificate with a specific record of one (1) year or more of experience as a soil classifier-in-training of a grade and character which indicates to the board that the applicant is competent to practice soil classifying.

(b) An application otherwise qualified shall be admitted to registration as a professional soil classifier without examination if he is a person who holds a certificate of registration in the practice of soil classifying on the basis of comparable qualifications issued to him by a proper authority of another state, possession, or territory of the United States and who, in the opinion of the board, meets the requirements of this chapter.

History. Acts 1975, No. 460, §§ 6, 7; A.S.A. 1947, §§ 71-2706, 71-2707.

§ 17-47-305. Soil classifier-in-training - Qualifications - Certification.

Unless otherwise qualified, a person shall be admitted to certification as a soil classifier-in-training, which certification shall be valid for four (4) years, if he is a person who:

- (1) Is a graduate of a soils curriculum approved by the board and has passed an examination in the fundamentals of soil classification; or
- (2) Is an applicant who has completed a soil curriculum not approved by the board, who has a specific record of one (1) year of soil classification experience of a grade and character satisfactory to the board, and who passes an examination in the fundamentals of soil classification.

History. Acts 1975, No. 460, § 8; A.S.A. 1947, § 71-2708.

§ 17-47-306. Issuance - Form - Evidence.

- (a) The board shall issue a certificate of registration upon payment of the registration fee as provided for in § 17-47-307 to any applicant who, in the opinion of the board, has met the requirements of this chapter.
- (b) Enrollment cards shall be issued to those who qualify as soil classifiers-in-training.
- (c) Certificates of registration shall carry the designation "professional soil classifier", shall show the full name of the registrant without any titles, shall be numbered, and shall be signed by the chairman and the secretary under the seal of the board.
- (d) The issuance of a certificate of registration by the board shall be prima facie evidence that the person is entitled to all rights and privileges of a professional soil classifier during the term for which the certificate is valid, providing it has not been revoked or suspended.

History. Acts 1975, No. 460, § 12; A.S.A. 1947, § 71-2712.

§ 17-47-307. Registration fees.

Registration fees shall be established by the board subject to the following limitations:

- (1) The registration fee for professional soil classifiers shall be in an amount of not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100);
- (2) The registration fee for soil classifier-in-training certification or enrollment shall be established by the board in an amount not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00); and
- (3) Should the board deny the issuance of a certificate to an applicant, the fee paid may be retained as an application fee.

History. Acts 1975, No. 460, § 10; A.S.A. 1947, § 71-2710

§ 17-47-308. Expiration and renewal.

- (a) Certificates of registration shall expire on June 30 following their issuance and shall become invalid after that date unless renewed.
 - (1) It shall be the duty of the secretary of the board to notify every person registered under this chapter of the date of the expiration of the certificate of registration and the amount of the fee required for its renewal.
 - (2) Notice shall be mailed to the registrant at his last known address at least one (1) month in advance of the expiration of the certificate.
- (b) Renewal may be effected at any time prior to or during the month of July by the payment of a fee established by the board not to exceed the fees established for registration.
- (c) Renewal of an expired certificate may be effected under rules promulgated by the board regarding requirements for reexamination and penalty fees.

History. Acts 1975, No. 460, § 13; A.S.A. 1947, § 71-2713.

§ 17-47-309. Reissuance.

A new certificate of registration to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the board. A reasonable charge shall be made for reissuance.

History. Acts 1975, No. 460, § 14; A.S.A. 1947, § 71-2714.

§ 17-47-310. Code of ethics.

- (a) The board shall cause to have prepared and shall adopt a code of ethics, a copy of which shall be delivered to every registrant and applicant for registration under this chapter.
- (b) The delivery shall constitute due notice to all registrants.
- (c) The board may revise and amend this code of ethics from time to time and shall forthwith notify each registrant in writing of revisions and amendments.
- (d) The code of ethics shall apply to all certificate holders.

History. Acts 1975, No. 460, § 15; A.S.A. 1947, § 71-2715.

§ 17-47-311. Disciplinary actions - Grounds.

The board shall have the power to suspend, refuse to renew, or revoke the certificate of registration of, or reprimand, any registrant who is guilty of:

- (1) Fraud or deceit in obtaining a certificate of registration;
- (2) Gross negligence, incompetence, or misconduct in the practice of soil classifying;
- (3) A felony or crime involving moral turpitude; or
- (4) A violation of the code of ethics adopted and promulgated by the board.

History. Acts 1975, No. 460, § 16; A.S.A. 1947, § 71-2716.

§ 17-47-312. Disciplinary actions - Procedure.

- (a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any individual registrant.
- (b) Charges shall be in writing, shall be sworn to by the person or persons making them, and shall be filed with the secretary of the board.
- (c) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three (3) months after the date on which they shall have been preferred.

- (d) The time and place for the hearing shall be fixed by the board.
- (e) A copy of the charges together with a notice of the time and place of hearing shall be served upon the accused either personally or sent by registered or certified mail to the last known address of the individual registrant at least thirty (30) days before the date fixed for hearing.
- (f) At any hearing, the accused registrant shall have the right to appear in person or by counsel, or both, to cross-examine witnesses appearing against the accused, and to produce evidence and witnesses in defense of the accused.
- (g) If the accused person fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.
- (h) If after the hearing a majority of the board votes in favor of sustaining the charges, the board shall make findings of fact, draw its conclusions, and issue its order therein and serve it upon the accused.
- (i) In the order the board may reprimand, suspend, refuse to renew, or revoke the accused individual's certificate of registration.
- (j) Any person who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking his certificate of registration may appeal therefrom to the circuit court of the county in which he resides or in Pulaski County as the aggrieved party may elect.

History. Acts 1975, No. 460, § 17; A.S.A. 1947, § 71-2717.